

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Petition of Certain  
Subscribers of the Becker Exchange for the  
Establishment of Extended Area Service  
Between the Becker Exchange and the  
Monticello and Enfield Exchanges

ISSUE DATE: May 5, 1988

DOCKET NO. P-427, P-404/CP-87-288

ORDER DENYING REQUEST FOR  
DISMISSAL

PROCEDURAL HISTORY

On May 18, 1987, the Minnesota Public Utilities Commission (Commission) received a petition for extended area service (EAS) between Becker and the Monticello and Enfield exchanges. The petition was sponsored by the Becker Chamber of Commerce. The Becker exchange is served by Sherburne County Rural Telephone Company (Sherburne). Monticello and Enfield are served by Bridge Water Telephone Company (Bridge Water).

On May 29, 1987, the Department of Public Service (DPS) sent a letter to the petition sponsor, Sherburne and Bridge Water setting forth the dates for filing the traffic studies, proposed rates and the stipulation of facts.

On January 15, 1988, the Commission received a letter from the accounting firm of Olsen, Thielen & Co., Ltd., on behalf of Bridge Water, requesting that the Commission dismiss the Becker to Monticello and Enfield EAS petition "because the traffic data makes it clear that there is no community of interest to support installation of EAS."

On February 10, 1988, the Commission received a letter and report by the DPS on the Becker to Monticello and Enfield EAS petition. In its report, the DPS recommended that Bridge Water's request for dismissal of the EAS petition be denied. The DPS explained that the traffic data provides an insufficient basis for granting Bridge Water's request.

On April 5, 1988, the Commission issued a memo notifying interested persons of Bridge Water's request for dismissal and of a Commission meeting to address it. The memo also indicated that the Commission would accept written comments regarding Bridge Water's request until April 21, 1988.

Between April 18 and April 21, twelve comments responding to the petition for dismissal were

received. All were from Becker subscribers requesting that the Commission deny Bridge Water's request.

### ISSUE BEFORE THE COMMISSION

Whether to grant Bridge Water's request for a variance to the EAS rules to dismiss the Becker to Monticello and Enfield EAS petition.

### FINDINGS AND CONCLUSIONS

Under the EAS rules, Minn. Rules, part 7815.0700 through 7815.1500, once an EAS petition is received, the telephone company serving the petitioning exchange must conduct a study of the traffic between the affected exchanges. The telephone companies serving the exchanges then do costs studies and develop proposed rates for the service. Finally, the telephone companies serving the affected exchanges and the DPS enter into a stipulation of facts which contains the results of the traffic study; the cost study; the proposed rates; the size of the exchanges; the location of government, commercial, employment, and social centers, schools and school districts, and medical, emergency medical, law enforcement and fire protection services serving the petitioning exchange; a projection of the additional facilities that will need to be installed; and the average monthly toll billings per main station over the proposed route.

The Commission recognizes Bridge Water's request for dismissal of this EAS petition to be a request for a variance from the Commission's EAS rules. Sherburne has filed a traffic study and indicated that it would provide the requested service at no charge to its Becker subscribers. Bridge Water has filed a traffic study and a request that the petition be dismissed.

Bridge Water provided the following reasons for its request. First, the company stated that there is insufficient traffic originating in Monticello or Enfield and terminating in Becker to justify the expense of either further study or installation of EAS. Second, the traffic from Becker to Monticello and Enfield shows a lack of any significant community of interest. Third, the cost to Bridge Water of preparing tariffed rates was estimated at between \$2000 and \$3000. Fourth, the company believes that the potential investment required would not be significantly different whether one-way or two-way EAS was considered because the facilities involved would be similar.

Finally, Bridge Water explained that traffic between Northern States Power Company (NSP) facilities in Monticello and Becker is currently handled on either NSP's private network or special access. However, if the EAS route were approved, Bridge Water believes that there would be some economic incentive for NSP to use the EAS network. This would result in residential subscribers supporting NSP's current communications costs.

The Commission finds that Minn. Rules, part 7830.4400 allows the Commission to vary its rules where it appears to the satisfaction of the Commission that:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting of the variance would not adversely affect the public interest; and
- C. granting of the variance would not conflict with standards imposed by law.

In this instance, the Commission finds that Bridge Water has not shown that enforcement of the rule would impose an excessive burden upon the company. EAS petitions, which include cost studies, are routinely before the Commission. Additionally, dismissing this petition solely on the basis of the traffic studies may adversely affect the public interest. The petitioners in this proceeding are the Becker subscribers. Becker is served by Sherburne County Rural Telephone Company. Sherburne has indicated that it could provide the requested EAS at no additional charge to its subscribers. Before the petition is dismissed the Commission should consider all costs and community interest information. Therefore, the Commission concludes that it will deny Bridge Water's request for dismissal of this EAS petition.

To address Bridge Water's concern regarding the potential traffic that could be generated over the proposed EAS route by NSP, the Commission will direct the DPS to investigate whether, and to what extent, NSP would use an EAS route between Becker and Monticello and the additional facilities that would be required. This information should provide the Commission with an adequate basis to consider NSP traffic when this EAS petition is again before the Commission. The DPS shall submit this report to the Commission and all parties within 45 days of the issue date of this Order.

Finally, due to the request for dismissal filed by Bridge Water, the Commission finds that it is necessary to reestablish the time limits for filing proposed rates and the stipulation of facts in this proceeding. The Commission may grant variances to its rules in the instances described above. In this proceeding, enforcement of the rule's time limits would impose an excessive burden upon the applicant and others affected by the rule because the time for filing the proposed rates and stipulation of facts under Minn. Rules, parts 7815.0900 and 7815.1000, has expired. Varying the rule's time limits would not adversely affect the public interest, rather the public interest will be served by allowing the telephone companies additional time to file the information necessary to continue the processing of this petition. Finally, granting the variance would not conflict with standards imposed by law.

The Commission will grant a variance to its rules and require that the proposed rates be filed within 50 days of the issue date of this Order. The stipulation of facts shall be submitted within 60 days of the issue date of this Order.

### ORDER

1. Bridge Water Telephone Company's request for dismissal of the Becker to Monticello and Enfield extended area service petition is hereby denied.
2. Within 60 days of the issue date of this Order, the Department of Public Service shall submit to the Commission and all parties, a report containing the results of its investigation into whether, and to what extent, NSP would use the proposed extended area service route and the additional facilities that would be required.
3. Bridge Water Telephone Company and Sherburne Telephone Company shall submit proposed rates as required by Minn. Rules, part 7815.0900, within 50 days of the issue date of this Order. The telephone companies and the Department of Public Service shall enter into the stipulation of facts as required by Minn. Rules, part 7815.1000, and submit the stipulation to the Commission and the petition sponsor within 60 days of the issue date of this Order.

4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen  
Executive Secretary

(S E A L)